

Exhibit B

COPY

VOL. I
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Exhibits 1 - 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

C.A. NO.: 0412164MLW

* * * * *

ERIC SOUVANNAKANE,

Plaintiff

VS.

SEARS ROEBUCK & COMPANY, WILLIAM
SULLIVAN, RICHARD SPELLMAN,
BARBARA TAGLIARINO, KEVIN
SULLIVAN, ALICIA COVIELLO, GARY
MANSFIELD,

Defendants

* * * * *

Deposition of JOHN W. BALDI, a witness called by
counsel for the Defendants, Gary Mansfield, pursuant
to the applicable rules, before Lorreen Hollingsworth,
CSR/RPR, CSR NO. 114793, and Notary Public in and for
the Commonwealth of Massachusetts, at the Law Offices
of Pierce, Davis & Perritano, LLP, Ten Winthrop
Square, Boston, Massachusetts, on Tuesday, April 18,
2006, at 10:15 a.m.

CURRAN COURT REPORTING
(781) 279-8400

1 APPEARANCES:

2
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On behalf of the Plaintiff

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On behalf of the Defendant,
Gary Mansfield

10 LIZA J. TRAN, ESQUIRE
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On behalf of the Defendants,
Sears Roebuck & Company, William Sullivan, Richard
Spellman, Barbara Tagliarino, Kevin Sullivan, and
Alicia Coviello

15 Also Present:

16 John A. Baldi,
17 Father of Deponent
18
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I N D E X

Deposition of:	DIRECT	CROSS
JOHN W. BALDI		
(by Mr. Cloherty)	4	
(by Ms. Tran)		85
(by Mr. Olson)		110

E X H I B I T S

No.		For Ident.
1	The statement dated 10/17/03	70

Exhibits retained by Attorney Cloherty

1 S T I P U L A T I O N S

2 It is hereby stipulated and agreed
3 by and between counsel for the respective
4 parties that the deposition will be read
5 and signed by the witness, under the pains
6 and penalties of perjury, and that the
7 sealing, filing, and notarization of the
8 deposition are waived.

9 It is further stipulated and agreed
10 that all objections, except as to form, and
11 motions to strike are reserved until the
12 time of trial.

13 JOHN BALDI,
14 a witness called on behalf of the
15 Defendant, Gary Mansfield, having first
16 been duly sworn, deposes and says as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. CLOHERTY

20 Q Good morning, sir. Could you please state
21 your name for the record.

22 A John W. Baldi.

23 Q And what does the W. stand for?

24 A Wayne.

1 MR. CLOHERTY: Before we go
2 any further, I'm going to place an
3 objection on the record. Present in the
4 deposition room is the deponent's father,
5 from my understanding, Mr. John A. Baldi,
6 Sr., who has been identified as an expert
7 witness in the case by the plaintiff's
8 attorney, Mr. Olson. And I'm objecting to
9 this witness' presence in the deposition.

10 I've asked him to excuse
11 himself out to the lobby during the course
12 of the deposition. He's refused to do so.

13 In lieu of seeking a
14 protective order, I'm going to go forward.
15 I'm just noting my objection on the record.

16 But to the extent that this
17 witness becomes disruptive with the
18 proceedings, I'm reserving my right to seek
19 a protective order in court.

20 Q Sir, have you ever given a deposition
21 before today?

22 A No.

23 MR. CLOHERTY: I'm going to go
24 over with you some of the rules of the

1 deposition, how I expect it to proceed.
2 I'm going to ask that you answer all
3 questions verbally rather than with a
4 simple nod of the head or an unh-unh. And
5 that way, the court reporter can take down
6 what is said. Okay?

7 THE WITNESS: Okay.

8 MR. CLOHERTY: I'll ask that
9 you try and wait until I finish my question
10 before you answer. And that way, even
11 though you can anticipate what I'm going to
12 ask, we're not talking over each other,
13 and, again, the court reporter can record
14 what each of us is saying. Okay?

15 THE WITNESS: Okay.

16 MR. CLOHERTY: If you don't
17 understand my question for any reason, I'd
18 ask that you let me know, and I'll try and
19 rephrase it. Okay?

20 THE WITNESS: Okay.

21 MR. CLOHERTY: Otherwise, I'm
22 going to expect that the answer you're
23 giving is in response to the question I've
24 asked. Fair enough?

1 THE WITNESS: Yes.

2 MR. CLOHERTY: You'll have an
3 opportunity to review the transcript of
4 this deposition for accuracy after it's
5 completed.

6 Would you like an opportunity
7 to do so, sir?

8 THE WITNESS: Yes.

9 MR. CLOHERTY: Ordinarily we
10 extend 30 days in which to do so. And
11 you'll be given an errata sheet, and an
12 opportunity to make any corrections, and
13 you have to sign off that you read it and
14 it's accurate or not accurate. Okay?

15 THE WITNESS: Yes.

16 MR. CLOHERTY: We'll
17 coordinate that after the deposition and
18 when you can either come to the court
19 reporter's office and review the transcript
20 or whatever methods we can get to have you
21 review the transcript. Okay?

22 THE WITNESS: Okay.

23 Q Now, before coming to testify here today,
24 sir, did you do anything to prepare for

1 your deposition?

2 A Not really.

3 Q Did you speak to anybody about the content
4 of your testimony today?

5 A Just my father.

6 Q And what did you and your father talk
7 about?

8 A He just told me what it's like to be in a
9 deposition.

10 Q Your father is not representing you today
11 as an attorney, is he, sir?

12 A No.

13 Q Did you talk to your father at all about
14 the content of your testimony?

15 A No.

16 Q Did you talk to anyone else about the
17 content of your testimony?

18 A No.

19 Q Did you talk to the plaintiff, Eric
20 Souvannakane, prior to coming here to
21 testify?

22 A No.

23 Q Did you review any documents before coming
24 to testify?

1 A No.

2 Q Are you on any medications today, sir?

3 A No.

4 Q And where do you currently live, sir?

5 A Melrose, 19 Ledge Street, Melrose, Mass.

6 Q How long have you lived at that address
7 for?

8 A Pretty much all my life.

9 Q And who do you live there with?

10 A My parents, my brother.

11 Q And what's your date of birth, sir?

12 A October 7, 1982.

13 Q And can you tell me a little bit about your
14 educational background, sir? Where did you
15 go to school?

16 A I went to school in Melrose. I went to
17 grade school in Melrose. I went to high
18 school in Melrose, graduated high school
19 and then I went to the military. And then
20 I got out of the military, worked for
21 Sears. Then I went back to school and
22 currently work at Westminster Dodge.

23 Q I want to take you through that in a little
24 more detail, sir.

1 When did you get out of
2 Melrose High School?

3 A 2001.

4 Q And you said thereafter you served in the
5 military, sir?

6 A Yes.

7 Q What branch of the military?

8 A U.S. Marines.

9 Q And for what years did you serve in the
10 Marines?

11 A I served from '01 to the end of October of
12 '02.

13 Q And were you discharged from the Marines,
14 sir?

15 A Yes.

16 Q Are you still in the Marine Reserves?

17 A No.

18 Q And what kind of discharge did you receive?

19 A OTH.

20 Q What does "OTH" mean?

21 A Other than honorable discharge.

22 Q Did you serve in any combat or war zones?

23 A No.

24 Q Now, you said after leaving the Marines,

1 sir, you next became employed with Sears?

2 A Yes.

3 Q How soon after you got out of the Marines
4 did you --

5 A A week.

6 Q And so it would be approximately in October
7 of '02 that you began your employment?

8 A It was more like November 1st. It was the
9 first week in November, sometime, I
10 believe.

11 Q And what position did you take with Sears
12 when you were hired there?

13 A As a -- they have three tech levels. It's
14 a Tech 1. You do, like, tires, batteries,
15 oil, miscellaneous little items.

16 Q And how long did you remain employed with
17 Sears?

18 A I am currently still employed with Sears.

19 Q You mentioned also after Sears you returned
20 to school?

21 A Yes. I returned to school and stayed at
22 Sears part time, sold at Sears part time.

23 Q When you said you went back to school,
24 where did you go back to school at?

1 A I went to Mass. Bay Community College. I'm
2 still in Mass. Bay.

3 Q Is that as a full-time student?

4 A I'm still in makeup classes and night
5 school. I do night classes.

6 Q And are you pursuing a degree there?

7 A Yes, associate's degree.

8 Q And is there any particular area of
9 specialty in that associate's degree? Is
10 it business or --

11 A It's automotive technology.

12 Q And how long have you been enrolled in
13 Mass. Bay Community College for?

14 A I believe it was 2003 or 2004 -- 2003.

15 Q To the present?

16 A To the present, yes.

17 Q Now, you mentioned also that you were
18 employed by Westminster Dodge?

19 A Yes.

20 Q Is that a full-time position?

21 A Yes.

22 Q And what do you do there?

23 A I'm an automotive technician.

24 Q And is that five days a week? Or how does

1 that work?

2 A It's five days a week. I'm technically on
3 a co-op schedule because the co-op doesn't
4 end until, I believe, next month, for the
5 automotive program. But I'm technically
6 still in automotive classes.

7 Q So your employment at Westminster Dodge is
8 part of your co-op with the community
9 college?

10 A Yes, but it's -- it's an actual job. You
11 have to go out and get the job, but it's --
12 the experience you get from there applies
13 to the college.

14 Q You get credits for it at college?

15 A Yes.

16 Q And your current employment with Sears, you
17 mentioned that's currently part time,
18 correct?

19 A Yes, sir.

20 Q What are the hours or what's the part-time
21 work?

22 A I just work Sundays down there. I just got
23 on the Sunday schedule. I used to work
24 just weekends.

1 Q And when did you first change from
2 full-time to part-time work at Sears, sir?

3 A When I started college.

4 Q Do you remember what month? You mentioned
5 earlier it was 2003 that you started. Do
6 you remember what month that was?

7 A I believe it was September.

8 Q And when you first switched to part-time
9 employment in September of 2003, what was
10 your schedule at Sears.

11 A It was just weekends and sometimes like a
12 night, I'd try to squeeze in a Tuesday
13 night. I believe it was Tuesdays.

14 Q And at the time you were -- after being
15 hired as a Tech 1 at Sears, did you ever
16 get any promotions or change in pay?

17 A No, they don't do meritorious promotions.
18 You've got to do, like, classes for what's
19 involved with the next tech level, which I
20 did Tech 2 level classes and did all that,
21 but I still received Tech 1 pay.

22 Q Just to clarify that testimony, are you
23 saying you were qualified to be a Tech 2,
24 but you never received that position?

1 A Yes, I qualified to do Level 1 and Level 2
2 jobs, I get paid for Level 2 jobs, but I
3 don't get the hourly pay as a Level 2.

4 Q And still today, is your position at Sears
5 a Tech 1 position?

6 A Yes.

7 Q Do you hold any licenses or certifications
8 for your profession or trade, sir?

9 A No.

10 Q Now, I ask this of all witnesses, sir.

11 Have you been convicted of a
12 misdemeanor in the past five years?

13 A No.

14 Q Have you been convicted of a felony since
15 age 18 to today?

16 A No, never convicted of a felony.

17 Q Are you aware, sir, that I'm representing
18 Officer Gary Mansfield, employed by the
19 Saugus Police in this action?

20 A Yes.

21 Q Have you, yourself, ever been arrested by
22 any member of the Saugus Police?

23 A No.

24 Q And do you know who Officer Gary Mansfield

1 is?

2 A I don't believe I've ever seen him before.

3 Q Now, when you were employed by Sears, when
4 you first started employment there, did you
5 have a supervisor?

6 A We had an assistant manager and a manager.
7 As far as a supervisor, I'm not really sure
8 what -- who would fall under that position.

9 Q When you were first hired, who was the
10 assistant manager that you worked for?

11 A Bill Dooley was the assistant manager.

12 Q And who was the manager at the time you
13 were first hired?

14 A The manager's name was Rick Mead.

15 Q And as far as your day-to-day activities at
16 Sears, did anyone give you direction on
17 what jobs to be doing?

18 A The jobs that come back get put on the
19 board, you go up to the board, you take a
20 job, you do the job, you put the keys up
21 front.

22 It's not, like, regulated.
23 They just put it up there; you take the
24 next one in line.

1 Q Was there any seniority among the techs
2 doing the work as to who was assigned
3 various jobs?

4 A No, not really. It was just if you're of
5 that skill level, you would take jobs,
6 like, the Skill Level 3s would take the
7 alignments, then the 2s would get mixed up
8 really. They do, like, basically Level 1
9 stuff. And then Level 1s would grab tires
10 or oil, and someone would be working the
11 battery lane.

12 Q During your employment at Sears, did the
13 positions of assistant manager and manager
14 change?

15 A Yes, many times.

16 Q About the time that you switched to your
17 part-time employment in September 2003, do
18 you recall who the assistant manager and
19 manager were?

20 A The manager was Anthony Ceiri. He's been
21 the manager ever since Rick left. And the
22 assistant manager was Dave Herrick.

23 Q And has Mr. Ceiri continued to be the
24 manager until today?

1 A Yes.

2 Q I might have already asked you this and I
3 apologize.

4 When you first switched
5 employment in September of 2003, do you
6 remember how many hours a week you were
7 working?

8 A I worked double shifts Saturdays, and I'd
9 work 10 to 5 on Sundays. Double shifts was
10 7:30 to 7 on Saturdays. I don't think they
11 were open until 8 then. They used to be
12 open late on Saturdays and they switched
13 it. I can't remember when.

14 Q And on Sundays, again, if I could ask you
15 to restate that. You worked what?

16 A Sundays is 10 to 5.

17 Q And you mentioned you believe you might
18 have worked one weeknight as well?

19 A Yes, when I got out of classes early,
20 depending on the academic schedule compared
21 to the automotive, sometimes we'd get out
22 of academics early and I could make it down
23 there early to work four or five hours,
24 depending ...

1 Q Now, do you know Eric Souvannakane?

2 A Yes, I do.

3 Q And how is it that you know him?

4 A I know him through Sears.

5 Q Do you recall precisely when you first met
6 him?

7 A I met him the first week I started there.

8 Q Was he already an employee of Sears at the
9 time you started employment?

10 A Yes.

11 Q Did you work the same shifts as him when
12 you first started employment?

13 A I don't believe we were the same. I mean,
14 I'd see him, maybe, two or three times a
15 week. The schedules always got changed.

16 Q And when you first started employment, do
17 you know what level employee he was?

18 A He was a Level 1.

19 Q At the time you first started employment,
20 how many Level 1 techs were employed at
21 Sears?

22 A I can't honestly answer that because I
23 don't -- I don't know who was what. I
24 mean, I know there was at least five of us,

1 but I don't know -- there were older men
2 working the same department, but I don't
3 know if they were getting paid more. So
4 I'm not really sure.

5 Q Of the Tech 1s that you knew at the time
6 you first started employment, there was
7 yourself, Eric Souvannakane, and who else,
8 can you recall?

9 A Andy DiGaetano, John Mello, Mike Katsaris
10 Eddy Felix. I think that's all I can
11 remember.

12 Q Can you characterize your relationship with
13 Eric Souvannakane?

14 A He was -- we just used to talk and stuff.
15 He was the only one that really talked to
16 me when I first started working there. So
17 we just started talking.

18 Q Did you become friendly with him as a
19 result of working together?

20 A Yes.

21 Q Did you ever socialize with Eric
22 Souvannakane outside of work?

23 A Yes.

24 Q And when did you first start socializing

1 with him outside of work?

2 A Maybe two or three months after I started
3 working there, maybe longer. I'm not
4 exactly sure.

5 Q And what type of socializing would you do
6 with Eric outside of work?

7 A We'd usually just drive around and listen
8 to music, go to his friend's house or just
9 hang out, really.

10 Q And when you drove around -- did Eric have
11 a car or did you have a car?

12 A Eric had a car.

13 Q Do you remember what kind of car Eric had?

14 A An Audi.

15 Q Did you ever go to his house or socialize
16 with his family at all?

17 A I've never been in his house. I've never
18 socialized with any members of his family.

19 Q Do you know any of his family members from
20 outside of that, not going to his house?

21 Did you ever meet any of his family
22 members?

23 A No.

24 Q Do you know if he has any kids?

1 A Yes. He has a daughter.

2 Q Did you ever meet his daughter?

3 A I've seen his daughter twice.

4 Q And on what occasions did you see his
5 daughter?

6 A Bumped into him at the mall, and while I
7 was leaving work one day, he was driving
8 out of the mall parking lot and stopped.

9 Q On either of those occasions, was Eric
10 still employed at Sears?

11 A No.

12 Q It was after his employment?

13 A Yes.

14 Q Did Eric ever stay over your house or visit
15 your house?

16 A He'd come over and -- I have a car that I'm
17 putting together, and he'd -- we'd just sit
18 and talk and he'd look at the car. But as
19 far as, like, stay over, stay over, he
20 never stayed over.

21 Q And what kind of car are you putting
22 together, sir?

23 A I'm putting together an '86 Camaro.

24 Q Do you own any other car, sir?

1 A Yes, I own an '88 Chevy pickup truck.

2 Q Have you ever lent either of your cars to
3 Eric to drive?

4 A Neither of those, no -- none of those.

5 Q Have you ever lent any prior cars you've
6 owned to Eric to drive?

7 A Yes.

8 Q What other cars?

9 A It wasn't -- well, I wasn't the owner. I
10 loaned him a Ford pickup. It was a '98
11 Ford.

12 Q And who's car was it that you were loaning?

13 A It was my father's truck.

14 Q And how frequently did you loan him your
15 father's Ford pickup?

16 A Just once.

17 Q And what was the reason you were lending
18 him your father's Ford pickup?

19 A He was moving out of his house or apartment
20 and he had to move a couch or a bed,
21 something big.

22 Q Did you help him with that move?

23 A No.

24 Q Have you continued to remain friendly with

1 Eric since he left employment with Sears?

2 A I might talk to him one month -- once a
3 month. That's about it. I haven't hung
4 out with him in a long time.

5 Q When you said you talk to him once a month,
6 is that by telephone?

7 A Yes. I bumped into him once after work.
8 That was a while ago.

9 Q Was that the time you mentioned earlier
10 when he was coming out of the mall?

11 A No, I was coming out of Dodge, and he was
12 coming home from Norwood or somewhere, and
13 I talked to him to about five minutes.
14 That's it.

15 Q Do you know where Eric works today?

16 A He works for Toyota. I don't know which
17 one, but I know he works for Toyota.

18 Q Did he tell you what he's doing for Toyota?

19 A He told me he's a sales -- car salesman.

20 Q Did you talk to him at all about whether he
21 enjoys that position?

22 A Not really. I just asked him about --
23 like, their cars and stuff.

24 Q Did you talk to him about what kind of

1 money he's making in that position at
2 Toyota?

3 A No.

4 Q Did he tell you he was making more money as
5 a cars salesman than he was as a tech?

6 A No.

7 Q When you worked with Eric at Sears, did you
8 have an opportunity to observe the kind of
9 work that he did?

10 A Yes.

11 Q What kind of work did Eric do at Sears?

12 A He did tires mostly, sometimes oil,
13 sometimes batteries, just like all the
14 other Tech 1s.

15 Q Did you have any opportunity to observe the
16 quality of Eric's work?

17 A Yes.

18 Q And what did you observe?

19 A He was a good worker. He was a really good
20 worker.

21 Q And why do you say that, sir?

22 A Well, he'd take his time. He'd do things
23 right. He wouldn't rush a job or --

24 Q Did you ever observe Eric have any

1 conflicts or heated discussions with any
2 customers of Sears?

3 A No, never. A lot of friendly ones, but
4 never aggressive ones.

5 Q Did you ever hear Eric swear in the
6 workplace?

7 A Not to customers. We all swear, but not in
8 front of customers.

9 Q And when you all swear, I take it, it's,
10 kind of, an auto shop atmosphere with all
11 men around; is that fair to say?

12 A Exactly.

13 Q So if someone drops a pipe, they might
14 swear about dropping the pipe or something
15 to that extent?

16 A Exactly.

17 Q And Eric was no different than any of the
18 other mechanics working there?

19 A Absolutely not. We were all the same.

20 Q Were you ever aware of anyone at Sears
21 being disciplined or reprimanded for
22 swearing to a customer?

23 A He told me he was on -- I forget what they
24 call it, but he couldn't go to work for two

1 or three days, but he got paid anyway, for,
2 supposedly, swearing to somebody. But I
3 wasn't there that day, so ...

4 Q That was going to be my next question.

5 Do you have any knowledge of
6 the incident that led to his being sent
7 home with pay?

8 A No. The times that he supposedly got in
9 trouble with customers, I wasn't working.
10 I either had the day off or I was on the
11 next shift.

12 Q And did you later learn of these incidents
13 from talking to Eric?

14 A Yes.

15 Q And what did he tell you about the first
16 incident?

17 A Where he swore at a man. I think he swore
18 at a man. He was flipping tires over.
19 Somebody mounted tires on that were -- had
20 the white letters on the outside, and I --
21 somebody handed him the ticket to fix it,
22 and he was fixing it. And the guy who
23 owned the car saw him doing it and thought
24 he was the one who did it, and they had

1 words, I guess. I don't know.

2 I guess the guy who owned the
3 car got mad at Eric, started saying
4 something to Eric. And Eric said, I didn't
5 even do this; I'm fixing it. And that's
6 all I know of that.

7 Q Did Eric tell you that he, in fact, did
8 swear back at the customer?

9 A He didn't tell me he swore. He just said
10 that the guy was really mad, and he was
11 yelling, and then he told him he didn't do
12 it. He really doesn't get in depth when he
13 tells you stuff.

14 Q Did you learn from any other sources about
15 what happened for that incident?

16 A When I came -- I went to work and I asked
17 if he was working one day or something and
18 they said no, they sent him home. I can't
19 remember if that was the same day or the
20 next day. I can't remember.

21 Q Did anyone else at Sears tell you the
22 reasons why Eric was sent home?

23 A I can't remember.

24 Q Was there talk among the techs at all about

1 Eric being sent home from work?

2 A Not that I remember. I remember someone
3 saying, Oh, they're getting rid of all the
4 workers, but that's about it.

5 Q And was that statement, They're getting rid
6 of all the workers, directly about Eric?

7 A It was in regards to Eric because, like I
8 said, he worked -- he was a good worker.
9 And they were -- that's when everything
10 started changing. They started hiring new
11 people and letting people go or people
12 started leaving.

13 Q Was there a fairly regular turnover of
14 employees at the auto department?

15 A As in -- how do you mean?

16 Q Did people come and go on a regular basis
17 for employment?

18 A Yes. Yeah, I'd say so.

19 Q Now, you mentioned earlier that there was
20 another incident where he got in trouble
21 that you weren't present for. What do you
22 know about that incident?

23 A All I know is he supposedly said some
24 sarcastic remark in front of a female

1 customer and she got upset. That's all I
2 know about that.

3 Q And you weren't present that day?

4 A No.

5 Q How did you learn about that incident?

6 A I believe I found out when I went to work
7 and then after -- either that day or the
8 next day, then he called me or I called him
9 and he told me. But I'm pretty sure I
10 found out when I went to work.

11 Q And do you remember who from work told you
12 about the incident where he was sarcastic
13 with a female customer?

14 A I have no idea.

15 Q And other than what you just described, was
16 there any further details given to you
17 about him being sarcastic to another
18 customer?

19 A No.

20 Q When you spoke to Eric on the phone, did he
21 describe to you in any detail about what
22 happened?

23 A No. He just said they let him go because
24 he, supposedly, swore in front of a female

1 customer.

2 Q And when you said they let him go, what did
3 you understand that to mean?

4 A That he got fired.

5 Q Did he tell you whether he had, in fact,
6 sworn at the customer or not?

7 A No.

8 Q Did you ask him whether he swore at the
9 customer?

10 A No.

11 Q And how soon after the first incident did
12 the second incident occur?

13 A It was relatively close, if I remember
14 correctly, a week, maybe two. I'm not
15 exactly sure.

16 Q Did Eric describe to you in any other
17 detail about what happened in that incident
18 with the woman?

19 A No, not that I can remember. It was really
20 a short conversation.

21 Q Did Eric complain that he was wrongly fired
22 from his position?

23 A Yeah, he was upset. I mean, he said he
24 didn't deserve to be fired as far as that's

1 concerned, but ...

2 Q Did he indicate to you that he was going to
3 take any steps in response to getting
4 fired?

5 A No.

6 Q Did you discuss any steps you would take on
7 his behalf?

8 A The only thing I asked him is, what does he
9 plan on doing now for work.

10 Q And what was his response?

11 A I can't remember.

12 Q You said that conversation only lasted
13 about five minutes or so?

14 A Yeah, we don't -- when we talk on the
15 phone, we don't talk long. It's just to
16 the point and that's it.

17 Q Did you speak to anyone else at Sears about
18 that incident where he was alleged to have
19 sworn at a female customer?

20 A I don't remember.

21 Q Was there any discussion among the techs
22 about Eric being fired for swearing at a
23 female customers?

24 A The only thing someone said was, They get

1 rid of the people who actually work and
2 they keep the people who don't work.
3 That's about it.

4 Q And do you remember who said that comment
5 to you?

6 A John Mello.

7 Q Is Mr. Mello still employed at Sears?

8 A Yes.

9 Q And did Mr. Mello tell you he had any
10 knowledge of the incident of Eric swearing
11 at a female customer?

12 A No.

13 Q Did you learn from any other source any
14 further information about that swearing at
15 a female customer incident?

16 A No, it was never really discussed. Just he
17 got fired for that, and that was it.

18 Q Did any supervisor, either the assistant
19 manager or the manager or anyone else,
20 explain to the techs why Eric Souvannakane
21 was fired?

22 A No.

23 Q Do you remember when it was that Eric was
24 fired?

1 A I don't remember the date.

2 Q Do you recall a dispute at the automotive
3 department concerning an oil spill?

4 A Yes, I remember. Well, how do you mean?
5 Like what? How do you mean that?

6 Q Let me ask it a different way.

7 Do you recall in or around the
8 time Eric was terminated there was a
9 dispute over an oil spill?

10 A Dispute as in with who?

11 Q That there was any discussion about an oil.
12 spill.

13 A I mean, we found spilled oil, if that's
14 what you're asking. But as far as -- I
15 don't know. The oil spill happened, yes.
16 The oil spill happened.

17 Q And I'm just trying to locate it in time
18 relative to when Eric was fired.

19 A Oh, what time?

20 Q Did it happen the same day that Eric was
21 fired or --

22 A Oh, after -- it must have been a couple
23 weeks after he got fired.

24 Q I'm going to ask you a bunch of questions

1 about that oil spill in a moment.

2 Was that a common occurrence
3 at the automotive department to have an oil
4 spill?

5 A Yes.

6 Q And how frequently did oil spills occur at
7 the automotive department?

8 A Oil would spill every time you emptied the
9 racks, the oil racks, from the lifts. Oil
10 would spill all the time.

11 You could bump into the thing
12 and oil would spill out of it because no
13 one ever emptied the drain buckets that you
14 could cart around. There was constantly
15 oil on the floor by the oil base.

16 MS. TRAN: Can I make a
17 request -- I'm Liza Tran; I represent
18 Sears -- that Mr. Baldi not make any facial
19 expressions while your son is testifying.

20 MR. BALDI: Excuse me?

21 MS. TRAN: I make a request
22 that you not make any facial expressions
23 while your son is testifying.

24 MR. BALDI: I wasn't even

1 looking at my son.

2 MS. TRAN: He may be looking
3 at you. I just request that you refrain
4 from making any facial expressions while
5 your son is testifying.

6 MR. CLOHERTY: I'll instruct
7 the witness. Mr. Baldi, you're to testify
8 from your own memory. Okay? And not seek
9 any assistance from anyone else that might
10 be in the room. Okay?

11 THE WITNESS: That's exactly
12 what I'm doing.

13 MR. CLOHERTY: Okay, thank
14 you.

15 Q So you mentioned that it was a frequent
16 occurrence that there would be oil spilled
17 in the oil bays; is that fair to say?

18 A Yes.

19 Q And can you describe what the oil bay is?

20 A The oil bay is, kind of, like an alignment
21 rack; it's a flat rack. You pull the car
22 on. The whole car goes up in the air with
23 the lift, and there's a drain -- you can
24 call it a drain bucket that slides back and

1 forth from the rails in between the lift.

2 Q So it's not as if -- some of these stores,
3 like, Jiffy Lube have an underground bay
4 where the workers go underneath the ground
5 working to change the oil, and the car
6 stays on the street level?

7 A No, this goes up in the air.

8 Q Okay. And there's a mechanism or a tool to
9 catch the oil when it's drained out to
10 change the oil?

11 A Yes.

12 Q And the oil that's drained out, where is
13 that stored in the oil bays?

14 A I believe it goes into -- there's a -- it's
15 like a little -- I don't know what you want
16 to call it, like a shack with a door, and
17 there's a drum in there, a giant, giant
18 drum. And there's a hose that you can
19 connect to the racks to drain the oil that
20 gets sucked into the waste tank and someone
21 comes and empties the waste into the truck
22 and it goes to wherever it goes.

23 Q Is the waste tank underground, sir?

24 A I believe the waste tank is above ground.

1 Q And there's some pumping mechanism that
2 sucks the oil out from the these moveable
3 storage containers?

4 A Yes.

5 Q How big are the moveable storage containers
6 used to drain the oil?

7 A The ones that you can count around the
8 shop?

9 Q If there are multiple kinds, then you need
10 to distinguish them.

11 A The ones that sit on the lifts, I couldn't
12 tell you. I mean, they're about that long,
13 I'd say 3 feet, maybe 2-and-a-half feet.
14 It's a perfect square. I don't know
15 exactly how much they hold. And the drums
16 that go around the shop, they're gallons.
17 I want to say 25, 30 gallons maybe.

18 Q Are there any other locations, other than
19 what you just described, where oil is
20 stored after it's drained?

21 A The only place -- we use a pump to suck out
22 to the racks and the drain buckets so you
23 can tote it around the shop. And they go
24 into one big tank, like I said before. And

1 that's it for oil, as far as I know.

2 Q And you've observed when there's -- is
3 there an outside contractor that comes to
4 remove the oil from the tank, the main
5 storage tank?

6 A Yes, it's a big truck.

7 Q And you mentioned that there's frequently
8 spills in the oil bays.

9 What kind of volume of oil
10 have you observed to be spilled in the oil
11 bays?

12 A Quarts, small, small spills, nothing huge.
13 I mean, it's normal to have a couple quarts
14 in the ground occasionally.

15 Q And when the small spills occur, is there a
16 procedure at the Sears automotive
17 department on how to deal with that?

18 A We usually just throw absorbent pads over
19 them and you clean them up like that.

20 Q And does the Sears automotive department
21 have a supply readily available of these
22 absorbent pads?

23 A Actually, no, they don't. There's usually
24 only one package. They don't even have

1 rags, shop rags. Those are scarce.

2 Q The absorbent pads that you used, how are
3 those disposed of after a cleanup?

4 A In the trash.

5 Q Was there ever any training for you as a
6 Sears tech on how to deal with oil spills
7 of that nature?

8 A No.

9 Q Is there any bulletins or publications on
10 the wall that state the steps you're
11 supposed to take when dealing with an oil
12 spill?

13 A There isn't. But when I went to college, I
14 know now that there's supposed to have MDMS
15 sheets. I believe it's MDMS sheets. And
16 it tells you how to clean up certain
17 chemicals and the proper way to dispose.

18 I didn't know that until I
19 started going to college. When I got hired
20 there, I had no idea. They did not train
21 us in cleaning up oil or any kind of
22 chemical spills.

23 Q And the MDMS sheets that you referenced, do
24 you know what that stands for, sir?

1 A I forget.

2 Q Is it a Massachusetts state entity?

3 A I'm not sure.

4 Q Now, you mentioned earlier that a couple
5 weeks after Eric was terminated, you were
6 aware of an oil spill in the oil bays?

7 A Yes.

8 Q I'm going to focus your attention on that.

9 When did you first become
10 aware of the oil spill in the oil bays at
11 that time?

12 A I was first aware of it the night before
13 the biggest incident happened. I remember
14 seeing oil on the ground. And I believe I
15 told -- Kevin Sullivan was there that
16 night -- about the oil in the back because
17 it wasn't -- you know, it wasn't big, but
18 it wasn't normal as far as -- like an
19 everyday occurrence thing. It was bigger
20 than normal, but it wasn't huge.

21 Q I'm going to ask you: Who is Kevin
22 Sullivan?

23 A Kevin is -- I think his position is called
24 a lead CSA. I don't know what it means,

1 but he's basically -- he's a manager on
2 Sundays, pretty much, and a manager at
3 nights. They give him the responsibility
4 of closing the store, sometimes opening.

5 Q Do you know what a CSA stands for?

6 A I have no idea.

7 Q The time that you reported that to Kevin
8 Sullivan, do you remember what time -- it
9 was an evening shift?

10 A It was the evening and we were about ready
11 to get out of there.

12 Q And do you know what caused that oil spill
13 that was on the ground that you saw that
14 you reported to Kevin Sullivan?

15 A I have no idea. It was around the waste
16 tanks in the back. I have no idea.

17 Q Can you estimate the volume of oil that was
18 spilled?

19 A I don't know the volume, but it was a
20 puddle of about, I want to say, 5 feet --
21 5 feet wide. I couldn't tell you how far
22 back it went because it went under --
23 there's a giant plastic drum back there and
24 there was a whole bunch of other stuff back

1 there. But as far as I could see, it was
2 about 5 feet wide, maybe 6 feet.

3 Q And you couldn't tell the depth of the
4 puddle because there were items in the way?

5 A There was a whole bunch of stuff in the
6 back. There are drums, other waste tanks;
7 there are other oil drums that you pull oil
8 from.

9 Q You had been working earlier that day,
10 correct?

11 A Yes. I don't remember my exact hours, but
12 I was working -- I believe I worked
13 something like a noon shift to close. And
14 I don't remember what time they closed back
15 then. They changed their hours.

16 Q Had you seen any oil at any time earlier in
17 the day that you just described, that
18 puddle of oil?

19 A No.

20 Q Had you been back in the area where that
21 puddle of oil was?

22 A Throughout the day?

23 Q Yes.

24 A I don't recall.

1 Q Do you know if -- in other words, I'm
2 asking, do you know if that puddle of oil
3 was existing for a long period of time
4 before you saw it?

5 A I don't know how long the oil was there
6 for.

7 Q Had you seen Eric Souvannakane that day
8 that you noticed the oil spill and reported
9 it to Kevin Sullivan?

10 A Yes. I saw him earlier and -- well, it was
11 dark out, but I don't remember what time it
12 was.

13 Q It was earlier in the evening, then?

14 A Yes. He came once. I gave him the keys.
15 He came back, gave me the keys back.
16 That's when it was dark out.

17 Q Now, you just mentioned he came and got the
18 keys. What are you referring to when he
19 came and you gave him the keys?

20 A Keys to the Ford pickup so he could do his
21 whole move.

22 Q So the earlier incident you mentioned that
23 you lent him your dad's Ford pickup truck,
24 that was the same day as the -- when you

1 noticed that oil spill and reported it to
2 Kevin Sullivan?

3 A It was the same day.

4 Q And how was it that Eric came to see you to
5 get the keys to the car? Had you spoken to
6 him before to make those arrangements?

7 A I don't remember. I think he asked me
8 beforehand, but I'm not really sure.

9 Q Is it possible that he just arrived at the
10 work site and asked you if he could borrow
11 your truck then?

12 A Yeah, he could have.

13 Q And at that point in time, you knew that
14 Eric had already been terminated from his
15 employment?

16 A Yes.

17 Q Had you seen him back at the work site at
18 any time since his termination until that
19 time he came to get the keys?

20 A Yes.

21 Q How many times had he come back to the work
22 site?

23 A I'm not sure, less than five maybe.

24 Q And under what circumstances did he come

1 back to the work site after his
2 termination?

3 A He -- I saw him -- he was driving by once
4 when he had his daughter -- he was coming
5 from the back because there are two ways to
6 get into the parking lot. And he was going
7 to get something, and I was -- I forget why
8 I was outside. But I saw him and I waved
9 to him.

10 And then one time he came back
11 to actually buy tires. And he actually
12 talked with the boss, Anthony; he talked to
13 Anthony Ceiri, the manager.

14 Q And who put on the -- did he actually buy
15 tires?

16 A Well, he was -- I was talking to him
17 outside. And Anthony came up and started
18 talking to him. And we were by some bay,
19 and then I went to finish a job. And it
20 was, like -- I remember Anthony told him,
21 you know -- he said he could buy tires. I
22 remember telling him, Yeah, can you go up
23 front. So Eric goes up front to wait for
24 tires.

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3 nights. They give him the responsibility
4 of closing the store, sometimes opening.

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8 Sullivan, do you remember what time -- it
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21 5 feet wide. I couldn't tell you how far
22 back it went because it went under --
23 there's a giant plastic drum back there and
24 there was a whole bunch of other stuff back

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2 about 5 feet wide, maybe 6 feet.

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19 came and you gave him the keys?

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21 whole move.

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23 you lent him your dad's Ford pickup truck,
24 that was the same day as the -- when you

1 noticed that oil spill and reported it to
2 Kevin Sullivan?

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5 get the keys to the car? Had you spoken to
6 him before to make those arrangements?

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8 beforehand, but I'm not really sure.

9 Q Is it possible that he just arrived at the
10 work site and asked you if he could borrow
11 your truck then?

12 A Yeah, he could have.

13 Q And at that point in time, you knew that
14 Eric had already been terminated from his
15 employment?

16 A Yes.

17 Q Had you seen him back at the work site at
18 any time since his termination until that
19 time he came to get the keys?

20 A Yes.

21 Q How many times had he come back to the work
22 site?

23 A I'm not sure, less than five maybe.

24 Q And under what circumstances did he come

1 back to the work site after his
2 termination?

3 A He -- I saw him -- he was driving by once
4 when he had his daughter -- he was coming
5 from the back because there are two ways to
6 get into the parking lot. And he was going
7 to get something, and I was -- I forget why
8 I was outside. But I saw him and I waved
9 to him.

10 And then one time he came back
11 to actually buy tires. And he actually
12 talked with the boss, Anthony; he talked to
13 Anthony Ceiri, the manager.

14 Q And who put on the -- did he actually buy
15 tires?

16 A Well, he was -- I was talking to him
17 outside. And Anthony came up and started
18 talking to him. And we were by some bay,
19 and then I went to finish a job. And it
20 was, like -- I remember Anthony told him,
21 you know -- he said he could buy tires. I
22 remember telling him, Yeah, can you go up
23 front. So Eric goes up front to wait for
24 tires.

1 Q Do you know whether he, in fact, bought
2 tires at the time --

3 A No, he left. Sorry for interrupting.

4 Q That's okay.

5 Did you ever talk to him about
6 why he left and did not buy tires?

7 A Yes.

8 Q And what did you learn?

9 A I -- actually, when he was in line to buy
10 something, one of the salesmen said, Hey, I
11 think you should leave. Anthony is on the
12 phone and he's talking about you.

13 And he said, For what? He
14 goes, I don't know; but I think you should
15 leave.

16 And then he left. And I went
17 back to the back shop. And then Anthony
18 said, Where did he go? I'm, like, He left.

19 Q Did you have any further discussion with
20 Anthony about that?

21 A He said, He's not supposed to be here. And
22 I said, Why did you tell him to go wait in
23 line? And he was -- he was upset. I mean,
24 he was turning red. And then he --

1 Q Who was turning red, Anthony?

2 A Yes, Anthony was turning red. Eric was
3 gone. Eric left after the salesman said, I
4 think you should leave.

5 Q And what further transpired between you and
6 Anthony talking about that?

7 A I just remember him being upset. And then
8 he started yelling at me. And I said,
9 Don't yell at me.

10 Q And how did he respond when you told him
11 not to yell at you?

12 A I don't remember exactly what he did. I
13 just remember him being upset. And then I
14 remember asking him, If he's not supposed
15 to be here, why did you send him in the
16 line to buy tires?

17 Q Did Anthony have a response to that?

18 A I don't remember.

19 Q Did you have any further information or
20 knowledge of that incident where Eric came
21 to buy tires?

22 A No.

23 Q Now, directing your attention back to the
24 date when Eric was borrowing the keys to

1 your dad's Ford, can you please describe
2 your memory of what happened when Eric
3 first came in to get the keys from you?

4 A He came in and I -- I gave him the keys. I
5 don't remember how long he stayed. It
6 couldn't have been long because I was
7 working and then he left. And he was gone
8 for a couple of hours. And then he came
9 back and gave me the keys.

10 Q Did you have any discussion with him when
11 he first borrowed the keys from you about
12 borrowing the truck or what to do and not
13 to do?

14 A I don't remember exactly what was said.

15 Q Did you see Eric talk to any other Sears
16 employees when he was there first picking
17 up the keys from you?

18 A I don't recall.

19 Q And how long was he in this store for when
20 he was borrowing the keys that first time?

21 A It couldn't have been long.

22 Q A matter of minutes?

23 A Possibly. I'm really not sure.

24 Q And you said he returned a couple hours

1 later.

2 Can you describe what happened
3 when he returned?

4 A He came back; he gave me the keys; I
5 remember we were talking in one of the
6 brake bays, more in the threshold to
7 outside; we were just, you know, BS'ing
8 around. And I remember he knocked one of
9 the oil drums. And then he was, like, Oh.

10 He didn't -- when he bumped
11 it, it was more like he was kidding. It
12 wasn't, like, malicious. He was like, This
13 is Larry's bay. He started cleaning up.
14 He was like, Oh.

15 Q I didn't catch what you said, he said oh?

16 A Oh, this is Larry's bay. Larry is a brake
17 guy that works in the back.

18 Q So earlier when you described it as the
19 "brake bay," that's where you fix
20 automobile brakes?

21 A Yes.

22 Q Did you see how he bumped into the oil
23 drum?

24 A I think he kicked it. I'm not sure.

1 Q And what kind of -- can you describe the
2 oil drum that he kicked?

3 A It was one of the ones that totes -- you
4 can tote around the shop, the portable ones
5 with the -- they have a steel drum and they
6 have a catch pan connected to a pipe that
7 runs into the drum.

8 Q And do you know the volume of that
9 particular drum?

10 A That's one of those 20- 25- 30-gallon
11 drums.

12 Q And you said that it got knocked over? Was
13 it knocked over on its side?

14 A I can't remember if that was knocked over
15 or if it was one of the 5-quart oil fill
16 jugs that are on the top. Because if one
17 of those fell over, it would be a mess.
18 And there wasn't -- I mean, maybe a half a
19 quart -- not even a half a quart of oil
20 that came out when he hit the barrel.

21 Q Okay. So you have a memory of the volume
22 of the spill being small?

23 A Yes. The oil that came out of what he hit
24 was very small, I mean, smaller than this.

1 Q And the record is not going to reflect what
2 you're pointing to.

3 A Sorry. It's smaller than --

4 Q 2 feet by a foot and a half?

5 A Yeah, 2 feet.

6 Q Now, you mentioned that there could have
7 been two sources of that oil, the big
8 30-gallon drum or another little 5-gallon
9 gallon drum that you mentioned?

10 A 5 quarts.

11 Q 5 quarts?

12 A There's -- when you use one of those
13 tote -- well, the tote drains, to drain the
14 waste oil in. They have 5 -- there's one
15 4-quart and one 5-quart metal fill. It's
16 an oil fill. You go up to the pumps, you
17 pump the new oil into that, and you use
18 that to fill the car since the oil base is
19 the only source of the oil. So you use
20 those oil hoses to fill one of those and
21 you can walk around the shop and fill up a
22 car.

23 Q Okay. And the 5-quart oil fill buckets,
24 are those stored on the ground level or are

1 they stored overhead or where are they
2 kept?

3 A They're stored wherever people leave them.

4 Q And you have a memory of him kicking or
5 bumping into some kind of barrel. Do you
6 remember that?

7 A Yes, he bumped into one of the -- the waste
8 oil -- the tote waste oil drain buckets,
9 and I can't remember if that's what moved
10 and caused the oil to come out or if it was
11 one of those 5-quart fills that was in the
12 pan on top of it, because sometimes people
13 will leave it up there.

14 Q Oh, okay. That's what I was trying to
15 determine.

16 How could his bumping into the
17 30-gallon drum affect the 5-quart metal
18 fill?

19 A Yes. I believe there was a 5-quart in that
20 drain because a lot -- I even do it. You
21 leave the 5-quart inside the waste pan, so
22 you don't get oil everywhere.

23 Q And either way there was a spill created by
24 Eric's conduct, right?

1 A Yes, a very small spill.

2 Q And what happened after that?

3 A He put down the abrasive pads, put down one
4 or two, cleaned it up, put it in the trash.
5 We talked, and then he left.

6 Q When you say "abrasive pads," you mean the
7 absorbent pads?

8 A Yes, yes, excuse me, the absorbent pads,
9 the white absorbent pads. They're 3M pads.

10 Q Did you see him clean up those pads after
11 they had been placed down?

12 A Yes. He cleaned the oil up, picked the
13 pads up, put them in the trash.

14 Q Did you have any discussion with him about
15 that spill while he was doing the cleanup?

16 A I walked outside. I, kind of, turned my
17 back, walked outside, came back in.

18 Q Did you help him in the cleanup itself?

19 A No.

20 Q Did he tell you not to tell anyone about
21 the cleanup?

22 A No, not to the best of my knowledge,
23 anyway.

24 Q Did he tell you, You didn't see anything?

1 A No.

2 Q Did he ask you to go outside and be a
3 lookout for him while he was cleaning up?

4 A No.

5 Q Why did you go outside, sir?

6 A I was -- we were more in the threshold and
7 when that happened, he said, This is
8 Larry's bay. And I, kind of, did one of
9 these and laughed a little bit and, kind
10 of, did one of those. I, kind of -- I
11 turned to my left. I was leaning up
12 against the threshold, and I, kind of,
13 walked outside and did one of these
14 (indicating). I put my hand on my face; I
15 came back in. And he was cleaning it up.

16 It was -- I mean, it wasn't
17 long enough where I would have missed
18 anything as far as me turning away. I
19 didn't actually turn my back away from it.
20 I just, kind of, walked.

21 Q Okay. And just so the record is clear,
22 when you were describing your actions, you
23 said, I, kind of, did one of these. And
24 you were gesturing by rubbing your hand on

1 your eyes?

2 A Yes, I put my hand on my head and covered
3 one of my eyes.

4 Q What happened after you saw Eric do that
5 cleanup and throw the absorbent pads in the
6 trash?

7 A I don't remember exactly what was said. I
8 know he left shortly after that.

9 Q And did you see the area where the spill
10 had happened after he did the cleanup?

11 A The spill that -- when he hit the --

12 Q Yes, the one that Eric was cleaning up.
13 Did you see the area that he was cleaning
14 up after it was done?

15 A Yes, it was in a -- it was almost in the
16 middle, like, exact middle of the bay. It
17 was right out in the open.

18 Q And was the cleanup effective in the
19 fact -- was the oil cleaned up?

20 A Yes.

21 Q How far was the location of that spill from
22 the site of the oil you saw on the floor
23 that you reported to Kevin Sullivan?

24 A The oil -- the oil he bumped or knocked was

1 in a brake bay. There's a dead bay and
2 then the oil bays start. I want to say
3 it's 25 feet away, maybe 30 feet away.

4 Q So it was two bays over?

5 A About two bays over, yes.

6 Q Did you ever see Eric Souvannakane in that
7 bay, the oil bay, where you had later
8 noticed the spill?

9 A No, we stayed by the thresholds of the
10 brake bays.

11 Q Did you at any time that day see him or
12 that evening see him in the area by that
13 oil spill in the oil bay?

14 A No.

15 Q So earlier you had described that you had
16 seen the oil spill in the oil bay that you
17 reported to Kevin Sullivan. Do you recall
18 that you testimony?

19 A I don't remember exactly. I remember
20 walking -- that same night I remember
21 walking back from there, and he was walking
22 next to me. That's why I believe I told
23 him about the oil down in the back.

24 I remember walking back up to

1 the front of the shop with him from the oil
2 bays.

3 Q By "him" you're referring to Kevin
4 Sullivan?

5 A Yes.

6 Q Did you take him to show Kevin Sullivan
7 where the oil spill was?

8 A I can't recall if he was down back closing
9 the doors, the oil bay doors, because
10 people left them open all the time. I
11 can't recall what he was doing or if I took
12 him down there. But I remember walking
13 back from the oil bays.

- 14 Q And do you recall telling Kevin Sullivan
15 about the spill?

16 A I think I told him about the spill. I'm
17 pretty sure I said, Hey, there's -- I think
18 I said something like, Hey, there's oil
19 down back.

20 Q And what was Kevin Sullivan's reaction?

21 A I don't recall exactly.

22 Q Did he ask you how big a spill it was?

23 A I don't remember if he asked me how big it
24 was or if, when he was walking around, he